

**§ 587.5 Receipt of relevant information.**

(a) In making its decision on matters arising under section 13(b)(5) of the Act, the Commission may receive and consider relevant information from any owner, operator, or conference in an affected trade, or from any foreign government, either directly or through the Department of State or from any other reliable source. All such submissions should be supported by affidavits of fact and memorandum of law. Relevant information may include, but is not limited to:

(1) Statistics, with sources, or, if unavailable, the best estimates pertaining to:

(i) The total cargo carried in the affected liner or bulk trade by type, source, value, tonnage and direction.

(ii) Cargo carried in the affected trade on vessels owned or operated by any person or conference, by type, source, value, tonnage and direction.

(iii) The percentage such cargo carried is of the total affected liner or bulk trade, on a tonnage and value basis.

(iv) The amount of cargo reserved by a foreign government for national-flag or other vessels in the affected trade, on a tonnage and value basis, and a listing of the types of cargo and specific commodities which are reserved for national-flag or other vessels.

(2) Information on the operations of vessels of any party serving the affected trade, including sailings to and from ports in the trade, taxes or other charges paid to foreign authorities, and subsidies or other payments received from foreign authorities.

(3) Information clarifying the meaning of the foreign law, rule, regulation or practice complained of, and a description of its implementation.

(4) Complete copies of all conference and other agreements, including amendments and related documents, which apply in the trade.

(b) Once introduced or adduced, information of the character described in paragraph (a) of this section, and petitions and responses thereto, shall be made part of the record for decision and may provide the basis for Commission findings of fact and conclusions of

law, and for the imposition of sanctions under the Act and this part.

**§ 587.6 Notification to Secretary of State.**

When there are indications that conditions unduly impairing the access of a U.S. flag vessel to trade between foreign ports may exist, the Commission shall so notify the Secretary of State and may request that the Secretary of State seek resolution of the matter through diplomatic channels. If request is made, the Commission will give every assistance in such efforts, and the Commission may request the Secretary to report the results of such efforts within a specified time period.

**§ 587.7 Decision; sanctions; effective date.**

(a) Upon completion of any proceeding conducted under this part, the Commission will issue and serve a decision on all parties.

(b) If the Commission finds that conditions unduly impairing access of a U.S. flag vessel to ocean trade between foreign ports exist, any of the following actions may be taken:

(1) Imposition of equalizing fees or charges applied in the foreign trade of the United States;

(2) Limitations on sailings to and from United States ports or on the amount or type of cargo carried;

(3)(i) Suspension, in whole or in part, of any or all tariffs filed with the Commission for carriage to or from United States ports, including the carrier's right to use any or all tariffs of conferences in U.S. trades of which it is a member for any period the Commission specifies, or until such time as unimpaired access is secured for U.S. flag carriers in the affected trade.

(ii) Acceptance or handling of cargo for carriage under a tariff that has been suspended, or after a common carrier's right to utilize that tariff has been suspended pursuant to this part, will subject a carrier to the imposition of a civil penalty as provided under the Act (46 U.S.C. app. 1712(b)(3)) of not more than \$50,000 per shipment; and

(4) Suspension, in whole or in part, of the right of an ocean common carrier to operate under any agreement filed